

CLERK'S OFFICE
50 MOST FREQUENTLY ASKED QUESTIONS

GENERAL

1. Can I speak to a judge or a law clerk about my case? *No. The clerk's office is the point of contact between litigants, their counsel and the court. The only exception is in an emergency situation in a particular case where a judge directs you to send a response directly to chambers.*
2. Can you help me find a 5th Circuit opinion about some legal topic, or can you help me find an opinion whose name I cannot remember which was about some topic? *No. The clerk's office is not staffed or equipped to perform legal research for you. You can search our database of published opinions using the ISYS search engine offered at our web site.*
3. Can you find me the 5th Circuit opinion for a case if I give you a cite to the Federal Reporter? *No. Citations to the Federal Reporter series are proprietary and belong to West Publishing. The opinions on our database cannot be linked to the West citations.*
4. How long does it take from the filing of my notice of appeal until oral argument? *Only about 12% of the cases filed will receive oral argument. Nearly one-half of the cases filed are dismissed on procedural grounds or because they settle. Of the fully briefed cases, only about 30% receive argument. A more complete statistical breakdown can be found in Table 27 of the clerk's office Annual Statistical Report, which is on the clerk's office webpage. If a case is argued, the average time for argument is about 10 months after the notice is filed.*
5. How long does it take for a ruling on my petition for rehearing? *There is no set time but generally the court rules within 30 days.*
6. Did you receive my brief/motion/petition for rehearing etc.? *We docket motions etc. generally within 24 hours after we receive them. Once docketed you can get this information by calling our Automated Voice Information System (AVIS) at (504) 589-2490, or at (504) 589-6514 and pressing "0" and then "1". You may also check the docket information available through the PACERNET System located on our web site, <www.ca5.uscourts.gov>.*

7. What is your address and how do I get to the court? *We are at 600 Camp Street, New Orleans, LA 70130. Maps are on the Internet at Item number 4 on the clerk's office webpage. If you are driving from the airport, exit the airport and take the Airport Access Road to I-10 eastbound. Follow I-10 and at the "split" of I-10 and I-610, stay to the right going to the "Central Business District". As you proceed toward the Mississippi River, there will be a sign and a right exit for I-10 to "Slidell". DO NOT TAKE THIS EXIT. Keep going straight toward the river. The expressway is now technically called US 90 West or the "Pontchartrain Expressway". Take the "Carondelet/St. Charles" exit. This is a short exit with a stoplight at the base of the exit. Cross Carondelet and at the next light, make a left turn onto St. Charles Avenue. Go through the stoplight to "Lee Circle". Make the first right exit which is "Andrew Higgins Drive" (formerly Howard Avenue). Get in the left lane, and go one block. At the stoplight turn left onto "Camp Street". Proceed down Camp Street until you reach "600 Camp". Parking is limited, but there are some commercial garages in the general area of the courthouse.*

If coming from east of town, take I-10 westbound and exit onto the Pontchartrain Expressway going toward the river. Then follow the instructions above.

NOTICES OF APPEAL AND FILING FEES

8. Where do I file my notice of appeal? *You file with the district court which entered the judgment from which you are appealing, FED. R. APP. P.3(a)(1).*

9. What does it cost to file a notice of appeal? *There is a \$5 fee imposed by 28 U.S.C. §1917 and a \$100 docketing fee imposed by the Judicial Conference of the United States under its delegated authority in 28 U.S.C. § 1913. These fees are paid to the district court clerk.*

10. Is there a fee for filing a motion, or petition for rehearing? *No.*

BRIEFS, RECORD EXCERPTS AND MOTIONS

11. If you allow three days for mailing a brief, why does the date on your Internet web site show a different brief due date? *The automated case management system defaults to a set due date - 40 days for an appellant's brief, 30 days for an appellee's brief, etc. You must either personally serve the brief on that date or mail it or deliver it to a third party commercial delivery service for delivery within three*

days. *If you mail or use a delivery service for your brief you are afforded three additional days.*

12. What is the “page limit” for my brief? *Under FED. R. APP. P. 32, briefs are limited to 30 pages. Because most briefs are prepared on computers or typewritten, the rule allows briefs longer than 30 pages if the filer completes a “certificate of compliance”. If a brief is prepared on a computer or word processor which has a word count feature, the limit is 14,000 words for a principal brief. If the brief is typewritten in monospaced typeface, and there is no word count feature, the limit is 1,300 text lines. Because the word and text line counts are mechanical in nature and set for use by word processing software and typewriters, they do not work for handwritten briefs. Accordingly, handwritten briefs are limited to 30 pages. FED. R. APP. P. 32 and the implementing 5th Circuit rule tell you how to count the pages and note that some pages, e.g., the table of contents, certificate of interested persons, tables of authorities, etc. do not count against the page word count or text line limits.*

13. What is the page limit for a mandamus petition? *Effective January 1, 2001, 5TH CIR. R. 21 provides that a mandamus petition has a 20 page limit. Any response may not exceed 10 pages.*

14. If I need to make corrections to my brief or record excerpts, how much postage do I need to send to you? *If you elect to have us return your briefs or record excerpts for compliance with the rules, you may call us and we will tell you how much the package weighs. You can then calculate the return postage costs.*

15. What title (case caption) should I have on my brief? *When we send you the briefing notice, we enclose a copy of the case title you should use on your brief.*

16. Can you explain the size of fonts, what sans-serif typeface is and the difference between monospaced and proportional typeface? *See our Guide to Writing a Brief under FED. R. APP. P. and 5TH CIR. R. 32 which is at the clerk’s office section of our Internet web site.*

17. What color should my brief cover be and how many copies do I need to file? *See FED. R. APP. P. 32(a)(2) and our Checklist of Rule Requirements for Briefs and Record Excerpts at our clerk’s office section of our Internet web site.*

18. Which software should the brief be typed in? *To insure maximum compatibility with our systems, we prefer that you use WordPerfect version 6.1 or higher. We have our biggest problem with briefs prepared on non-IBM compatible systems, and ask that you not use them if possible.*

19. What is wrong with my certificate of service? *If you have sent us a certificate at all, most likely the problem is that you have not complied with FED. R. APP. P. 25 and have not given a proper address. A certificate (proof) of service which says that you mailed or delivered the brief to "Mr. John Smith, Anytown, LA" is NOT SUFFICIENT. You must state you personally delivered or mailed the brief to "Mr. John Smith, 1234 Main Street, Anytown, LA 70130", or if there is no street address for mailing, you may state the brief was mailed to "Mr. John Smith, P.O. Box 345, Anytown, LA 70130."*

20. Since the other party has to make corrections in his or her brief, when does my briefing time start? *Your briefing time runs as originally scheduled unless the deficient brief is in excess of the type-volume limits, or is so incomplete that there is nothing for you to respond to. If there are major corrections needed, we will notify you when your brief is due.*

21. What is wrong with my certificate of compliance? *Likely, you have not completed the certificate. Please see our suggested certificate of compliance at the clerk's office section of our web site. Look at section 1 A. If you certify the number of words in your brief (which you can elect to do if your brief is over 30 pages and you have used a computer or word processor with a word count feature) by merely saying your brief "complies with the word count limits of FED. R. APP. P. 32" or "has fewer than 14,000 words", the certificate is not sufficient. You must state the exact number of words in your brief as counted by the word count feature of your computer or word processor, e.g., "13,452 words". Do not try to manually count the number of words. If you have prepared a brief in monospaced typeface and on a system that does not have a word count feature - for example an electric typewriter - you do not use the "word count" portion of the certificate. Instead, you use the text line section shown in section 1B of our form. In section 2A of our form, you must tell us that you used, for example, "WordPerfect version 8.0" using "CG Times typeface in 14 points", or for monospaced briefs prepared without a word count feature, use section 2B and state that the brief was prepared using, for example, "Courier typeface with 10.5 characters per inch".*

22. Why is the 5th Circuit so strict on its rules concerning briefs? *The court charges us with enforcing the rules fairly and uniformly to all parties. We enforce the rules so that each litigant is insured that the “playing field will be level” and that no party can obtain an advantage over another by failing to comply with the rules. Equally important, the court wants the form of briefs and other pleadings to be consistent and easily readable by the judges. Remember only 30% of the fully briefed cases receive oral argument and our judges must read a tremendous volume of written materials. They want them to be easy to read and to understand. When you comply with the rules, the court receives a better product that aids in their decision.*

23. What do I need to put in my record excerpts? *See 5TH CIR. R. 30.1.4 and 30.1.5.*

24. How many copies of my:

- a. brief;
- b. record excerpts;
- c. petitions for rehearing;

do I need to file? *You must file 7 paper copies of your brief with the court. In addition, if the brief was prepared on a computer, you must also file an electronic copy with the court, 5TH CIR. R. 31.1. You must file 4 copies of your record excerpts with the court, 5TH CIR. R. 30.1.2. You must file 4 copies of a petition for panel rehearing, 5TH CIR. R. 40.1. You must file 20 copies of a petition for rehearing en banc, 5TH CIR. R. 35.2.*

25. How many copies of motions do I need to file? *You must file 2 copies of motions which can be ruled on by a single judge or the clerk; and 4 copies of motions which must be presented to a panel of judges, 5TH CIR. R. 27.4.*

26. Does my motion have to have a cover? *No, but the motion must have a caption with the case number, name of the court, title of the case, a brief descriptive title of the motion and identify the party for whom the motion is filed, FED. R. APP. P. 27(d)(2)(B).*

27. Do I need to provide the court with a proposed order when I file a motion?
No.

RECORDS AND COSTS FOR COPY WORK

28. How much do you charge to copy documents? *The Judicial Conference of the United States has set a fee of \$.50 per page for copies of documents. As an exception, there is a flat rate cost of \$3.00 for a copy of an opinion in a case. The fees must be paid in advance.*

29. Do you accept credit cards for copy work? *At the present time we do not accept credit cards. Payment must be made by cash, or by check or money order payable to "U.S. Courts".*

30. Can you fax copies of briefs to me? *No. We do not have the personnel or dollar resources to fax briefs.*

31. Can you copy an entire case file for me, including the briefs, etc.? *No, we have neither the staff nor copying equipment to do large volume copying. Further, you can likely get a better price per page if you contact a reputable copying service in New Orleans to check out the case file and to prepare the copies for you. We can give you some names of companies if you wish.*

32. How can I get a record which is at the Federal Records Center? *You can contact us, provide a \$25 retrieval fee and we will order it for you. If you want copies of all or part of the record, there is an additional \$.50 per page copying cost.*

33. How long does it take for you to send me copies of briefs, etc.? *If we have the documents in our office, we should be able to send them within 3 working days after we receive your payment.*

ORAL ARGUMENT

34. I am the cross-appellant in a case, do I get time for rebuttal? *No.*

35. When will I be notified if my case is set for oral argument? *We generally provide you with 60 days notice that your case will be argued during a particular week. You normally receive 30 days notice of the specific day and location of the*

argument.

36. Is my argument scheduled in New Orleans, what courtroom am I in, where is the courtroom? *You can check our calendaring information on our Internet web site or you can call our Automated Voice Information System ((504) 589-2490) which will tell in which city argument will be held. Arguments in New Orleans are on the second floor. The en banc courtroom is room 209, the east courtroom is room 223 and the west courtroom is room number 265. The room numbers for the courtrooms are on the left inside columns to the entrance hallways. A map of the interior of the John Minor Wisdom Court of Appeals Building is Item number 4 on the clerk's office webpage.*

37. I am flying in the day before oral argument. Can I come to the courthouse and listen to others present oral argument? *Yes.*

38. Can you tell me who is on my oral argument panel? *The Internal Operating Procedure following 5TH CIR. R. 34 states that the court does not release the names of the panel members until one week before the start of the oral argument session. When the information is released, it is available on AVIS, (504) 589-2490, and is posted on our website one week before oral argument begins.*

39. Can you give me some background information about the judges on my panel? *See our "Judge Biographies" section on our Internet home page.*

40. Can I fax you my oral argument acknowledgment form? *As a general rule, no. 5TH CIR. R. 25 restricts the use of faxed information to emergency situations only, and only after specific approval from the clerk.*

CRIMINAL JUSTICE ACT (CJA) VOUCHERS

41. How can I track the status of my CJA voucher? *See the court's Internet home page and select the "CJA voucher" section.*

BILLS OF COSTS

42. What is recoverable under a "bill of costs"? *In general, see 5TH CIR. R. 39. If the court awards you costs, you may submit a bill of costs and recover:*

- a. *The \$100 filing fee (if you are the appellant);*
 - b. *Your costs for preparing up to 10 copies of the record excerpts at up to \$.25 per page; the cost of covers at up to \$.25 per page, the cost of spiral binding up to \$1.50 per binding; sales tax if the record excerpts are commercially printed and you attach a copy of the invoice;*
 - c. *The actual costs of tabs used to separate portions of the record excerpts as required by 5TH CIR. R. 30.1.7(c);*
 - d. *Your costs in preparing up to 15 copies of your brief at not to exceed \$.25 per page and for covers, binding and sales tax as shown in b above.*
43. What costs are not recoverable? *You may not be reimbursed, inter alia, for:*
- a. *The costs of trial transcripts;*
 - b. *UPS or FedEx, etc., costs;*
 - c. *Costs for petitions for panel or en banc rehearings, or for initial en banc hearing;*
 - d. *Costs for a “Rule 28 (j) letter”;*
 - e. *The costs of typing fees or general office overhead;*
 - f. *Attorney’s fees.*
44. How many copies of a bill of costs do I have to submit? *You must submit one bill of costs with an original signature.*
45. Where do I send the bill of costs? *Send to the U.S. Court of Appeals, Fifth Circuit, Clerk’s Office, 600 Camp Street, New Orleans, LA 70130.*
46. I have not received payment, what should I do? *Contact the district court in which the action was filed.*

ATTORNEY ADMISSION/DISCIPLINARY ACTIONS

47. How do I get a certificate of good standing? *Mail a request to U.S. Court of Appeals, Fifth Circuit, Clerk's Office, Mail Remittance, 600 Camp Street, New Orleans, LA 70130. Include in your request for a certificate of good standing your full name, social security number, a check or money order for \$15.00 payable to "U.S. Courts", and a self-addressed stamped envelope.*

48. How do I apply for admission to the Fifth Circuit? *You complete the Form for Appearance of Counsel and Application for Admission which you can print or download from the clerk's office section of our web site. Please send a check or money order for \$50.00 payable to the "Librarian, U.S. Court of Appeals for the Fifth Circuit".*

AMICUS BRIEFS

49. When is my amicus brief due? *FED. R. APP. P. 29 specifies that an amicus brief and any needed motion must be filed (personally served or placed in the mail) within 7 days of the filing of the brief being supported.*

50. If I am filing an amicus brief in support of rehearing, when must the amicus brief and any necessary motion be filed? *The amicus brief and any motion must be filed within 7 days of a petition for rehearing filed by a party in the case.*